

Paragraphs of act and regulations	Classes of operators	State	Effective date
Act, 11(d); 381.194 .....	Persons engaged (not in or for commerce) in the business of buying, selling or transporting any dead, dying, disabled or diseased poultry, or parts or carcasses of any poultry that died otherwise than by slaughter.	Arkansas ..... Georgia ..... Guam ..... Idaho ..... Maine ..... Maryland ..... Michigan ..... New Hampshire ..... Northern Mariana Islands ..... Puerto Rico ..... Rhode Island ..... South Dakota ..... Virgin Islands .....	Nov. 12, 1976. Nov. 19, 1976. Nov. 12, 1976. Nov. 12, 1976. Mar. 31, 1991. Nov. 12, 1976. Oct. 29, 1979. Oct. 29, 1979. Nov. 19, 1976. Mar. 29, 1982. Nov. 12, 1976. Nov. 19, 1976. Nov. 12, 1976.

[37 FR 9706, May 16, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §381.224, see the List of CFR Sections Affected in the Finding Aids section of this volume.

**§381.225 Criteria and procedure for designating establishments with operations which would clearly endanger the public health; disposition of poultry products therein.**

(a) An establishment in any State not listed in §381.221 that is preparing poultry products solely for distribution within such State shall be designated as one producing adulterated products which would clearly endanger the public health, if:

(1) Any poultry product processed at the establishment is adulterated in any of the following respects:

(i) It bears or contains a pesticide chemical, food additive, or color additive, that is "unsafe" within the meaning of section 408, 409, or 706 of the Federal Food, Drug, and Cosmetic Act or was intentionally subjected to radiation in a manner not permitted under section 409 of said Act; or if it bears or contains any other added poisonous or added deleterious substance which may render it injurious to health or make it unfit for human food; or

(ii) It consists in whole or in part of any filthy, putrid or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food (for example, it was prepared from a poultry carcass or other ingredients exhibiting spoilage characteristics); or it is, or was prepared from, a poultry carcass which would be required to be con-

demned under subpart K at official establishments; or

(iii) It has been prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health (for example, if insects or vermin are not effectively controlled at the establishment, or insanitary water is used in preparing poultry products for human food); or

(iv) It is, in whole or in part, the product of poultry that died otherwise than by slaughter; or

(v) Its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; and

(2) Such adulterated articles are intended to be or are distributed from the establishment while capable of use as human food.

(b) When any such establishment is identified by an inspector as one producing adulterated poultry products which would clearly endanger public health under the criteria in paragraph (a) of this section, the following procedure will be followed:

(1) The inspector will informally advise the operator of the establishment concerning the deficiencies found by him and report his findings to the appropriate Regional Director for the Inspection Service. When it is determined by the Regional Director that any establishment preparing poultry

products solely for distribution within any State is producing adulterated poultry products for distribution within such State which would clearly endanger the public health, written notification thereof will be issued to the appropriate State officials, including the Governor of the State and the appropriate Advisory Committee, for effective action under State or local law to prevent such endangering of the public health. Such written notification shall clearly specify the deficiencies deemed to result in the production of adulterated poultry products and shall specify a reasonable time for such action under State or local law.

(2) If effective action is not taken under State or local law within the specified time, written notification shall be issued by the Regional Director to the operator of the establishment, specifying the deficiencies involved and allowing him 10 days to present his views or make the necessary corrections, and notifying him that failure to correct such deficiencies may result in designation of the establishment and operator thereof as subject to the provisions of sections 1 through 4, 6 through 10, and 12 through 22 of the Act as though engaged in commerce.

(3) Thereafter the inspector shall survey the establishment and designate it if he determines, in consultation with the Regional Director, that it is producing adulterated poultry products, which would clearly endanger the public health, and formal notice of such designation will be issued to the operator of the establishment by the Regional Director.

(c) Poultry products on hand at the time of designation of an establishment under this section are subject to retention or detention, and seizure and condemnation in accordance with §381.145 or subpart U of this part: *Provided*, That poultry products that have been federally inspected and so identified and that have not been further prepared at any nonfederally inspected establishment may be released for distribution if the products appear to be not adulterated or misbranded at the time of such release.

(d) No establishment designated under this section can lawfully prepare any poultry products unless it first obtains inspection or qualifies for exemption under §381.10 of this subpart. All other provisions of the regulations shall apply to establishments designated under this section to the same extent and in the same manner as if they were engaged in commerce, except that the exceptions provided for in §381.222 shall apply to such establishments.

#### **Subpart W—Rules of Practice Governing Proceedings Under the Poultry Products Inspection Act**

SOURCE: 42 FR 10962, Feb. 25, 1977, unless otherwise noted.

##### **GENERAL**

#### **§381.230 Scope and applicability of rules of practice.**

(a) The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under sections 6, 7, 8(d) and 18 of the Poultry Products Inspection Act (21 U.S.C. 455, 456, 457(d), and 467). In addition, the Supplemental Rules of Practice set forth in §§381.232 through 381.234 of this subpart shall be applicable to such proceedings.

(b) The rules of practice set forth in §§381.235 and 381.236 shall be applicable to the suspension of assignment of inspectors for threats to forcibly assault or forcible assault, intimidation or interference with any inspection service employee pursuant to §381.29 of the regulations (9 CFR 381.29) under the Poultry Products Inspection Act. In addition, the definitions applicable to proceedings under the Uniform Rules of Practice (7 CFR 1.132) shall apply with equal force and effect to proceedings under §§381.235 and 381.236 of this subpart (9 CFR 381.235 and 381.236).